

FILED

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JUN 14 2010

06-14-2010

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Claudette M. Jerzak

(Name of the plaintiff or plaintiffs)

CIVIL ACTION

v.

G:O Ltd. d/ba Plainfield
Delight

(Name of the defendant or defendants)

1:10-cv-03669

Judge Matthew F. Kennelly

Magistrate Judge Michael T. Mason

COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.

2. The plaintiff is Claudette M. Jerzak of the
county of Will in the state of IL.

3. The defendant is G:O Ltd. d/ba Plainfield Delight, whose
street address is 24020 W. 119th St.,
(city) Plainfield (county) Will (state) IL (ZIP) 60585

(Defendant's telephone number) (815) - 254-1565

4. The plaintiff sought employment or was employed by the defendant at (street address)

24020 W. 119th St. (city) Plainfield
(county) Will (state) IL (ZIP code) 60585

5. The plaintiff [*check one box*]

- (a) ☐ was denied employment by the defendant.
- (b) ☐ was hired and is still employed by the defendant.
- (c) ☒ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about,

(month) September, (day) 1, (year) 2009.

7.1 (*Choose paragraph 7.1 or 7.2, do not complete both.*)

(a) The defendant is not a federal governmental agency, and the plaintiff [*check*

one box] ☐ *has not* filed a charge or charges against the defendant
☒ *has*

asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

- (i) ☒ the United States Equal Employment Opportunity Commission, on or about
 (month) December (day) 30 (year) 2009.
- (ii) ☐ the Illinois Department of Human Rights, on or about
 (month) _____ (day) _____ (year) _____.

(b) If charges *were* filed with an agency indicated above, a copy of the charge is

attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

- (a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

☐ Yes (month) _____ (day) _____ (year) _____

☐ No, did not file Complaint of Employment Discrimination

(b) The plaintiff received a Final Agency Decision on (month) _____
(day) _____ (year) _____.

(c) Attached is a copy of the

(i) Complaint of Employment Discrimination,

☐ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☐ NO, but a copy will be filed within 14 days.

8. (Complete paragraph 8 only if defendant is not a federal governmental agency.)

(a) ☐ the United States Equal Employment Opportunity Commission has not issued
a *Notice of Right to Sue*.

(b) ☒ the United States Equal Employment Opportunity Commission has issued a
Notice of Right to Sue, which was received by the plaintiff on
(month) March (day) 17 (year) 2010 a copy of which
Notice is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only those that apply*]:

(a) ☐ Age (Age Discrimination Employment Act).

(b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

- (c) ☒ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☐ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☐ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☐ Sex (Title VII of the Civil Rights Act of 1964)
10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).
11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.
12. The defendant [*check only those that apply*]
- (a) ☐ failed to hire the plaintiff.
- (b) ☒ terminated the plaintiff's employment.
- (c) ☐ failed to promote the plaintiff.
- (d) ☐ failed to reasonably accommodate the plaintiff's religion.
- (e) ☒ failed to reasonably accommodate the plaintiff's disabilities.
- (f) ☐ failed to stop harassment;
- (g) ☒ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) ☐ other (specify): _____
-

13. The facts supporting the plaintiff's claim of discrimination are as follows:

① DEROGATORY comments about my CANCER TREATMENTS
side effects

② UNFAIR treatment at work

③ FAILURE to comply

④ Failed to make REASONABLE adjustments
(SEE ATTACHED)

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☒ YES ☐ NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff
[check only those that apply]

- (a) ☐ Direct the defendant to hire the plaintiff.
(b) ☐ Direct the defendant to re-employ the plaintiff.
(c) ☐ Direct the defendant to promote the plaintiff.
(d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
(e) ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.
(f) ☐ Direct the defendant to (specify): _____

Plaintiff

Claudette M. Jerzak

Defendant

1.) Derogatory comments about my cancer treatment side effects.

John Douvris, my supervisor at Plainfield Delight told my co worker that I shouldn't be

Wearing a head scarf that he wants me to wear a wig and he was complaining that I was too slow on the computer that I was losing my memory due to the chemotherapy side effects. The reason that I wore a scarf is I lost all my hair due to the chemotherapy. My scalp was very sensitive and the wig was hot, itchy and sweaty. Most women who lose their hair prefer wearing head scarfs. They do make special light weight full head scarfs for wearing all the time. I was told to "lose the scarf and wear the wig" John Douvris said that Jimmy the owner Demiteris Letsos does not like it.

2.) Unfair treatment at work

On October 27, 2009 I went to the emergency room with bronchial spasms though I quickly recovered. The coughing spasm left me with a severe case of laryngitis. After several attempts to return to work in which John said he would schedule me. He did not comply on November 24, 2009. He terminated me by telephone. First he asked me when I was to have my surgery. I told him that I was unsure and that this was dependent on an upcoming pet scan. He then stated that the schedule was tight and there was no room for me and to just go on disability. He said that he would tell disability anything I wanted him to say, and then he called his sister. He called me back and said his sister would help me file for Application for approx \$2000. I told John that I was able to work and did not have \$2000. Several of my co workers took off extensive time for illness and returned to p/d with their same hours and schedule. I in turn was dismissed. During the entire time I was employed at Plainfield Delight, I never received any negative reviews, never was disciplined or written up for anything. The reason given for my termination was "the schedule is tight". This is not fair and unjust.

3. Failure to comply

Plainfield Delight was not accommodating to at the start of my illness. On July 1st, 2009 I informed John Douvris that I had cancer. He promptly without my permission reduced my work schedule. John Douvris had threatened many times to terminate anyone who complained, so I did not complain. In or around September 2009 I asked John Douvris to accommodate me with a day off due to my chemo treatment. He did not comply and scheduled me to work that day. When I questioned him about it he said "that's the way I want it." Towards the end of my chemo treatments was experiencing slight nausea. I asked John Douvris if I could get something to eat during my shift to relieve my nausea symptoms. John Douvris said nothing to accommodate my request.

4. Failed to make Reasonable adjustments to keep me employed

In or around mid October 2009 John Douvris pulled me aside and told me to "Lose the Scarf." Jimmy (the owner) Demitrous Letsos doesn't like it, especially the colorful ones. At the beginning of my hair loss I wore a wig, due to working 7-8 hours without a break. My scalp began to break out. Supervisor Connie suggested I wear a scarf, she said Jimmy would not mind. I continued to wear a scarf (plain one) approximately 1 and a half weeks later when I became ill with bronchial spasms; I was not allowed to return to work thus dismissed.

**United States District Court
Northern District of Illinois**

Plaintiff
CLAUDETTE M JERZAK

Plaintiff

G4O LTD D/BA
PLAINFIELD DeLight
Defendant

V.

Defendant

COMPLAINT

see Attached

Complaint

Plainfield Delight was fully aware of the laws regarding discrimination. This was expressed to us in our many training sessions.

Due to my wrongful treatment and termination from my employers John Douvris and Demitrous Letsos at Plainfield Delight I suffered emotional, financial and physical distress.

Thus I am seeking punitive damages in the amount of \$150,000. I hope this will teach G & O Ltd. d/ba pd. to be more sensitive and non discriminatory towards people with disabilities.

Plainfield Delight needs to adhere to the law that provides a safe and non hostile environment to all employees.

I am also seeking compensatory damages of \$4,500 from lost wages from November 16th of 2009 to June of 2010. Serving others mentally helped to keep my mind off from receiving the freighting diagnosis of cancer for the 2nd time in my life

1. Staying active by walking, bending, lifting and cleaning kept me physically strong. After my dismissal I became depressed and gained 20 pounds.
2. Laughing and receiving prayers of support from my patrons and co-workers lifted me emotionally and spiritually.
3. When I was abruptly dismissed I was devastated. I was not emotionally or finically prepared. My husband for the first time in his life had to go on unemployment. I informed John Douvris of my husband's situation. A few weeks later John dismissed me. I lost my ability to contribute by paying for groceries or being able to pay a bill.
4. I greatly miss my guest and coworkers. I have known many of them for years. Some of my coworkers are afraid to support me for fear of them losing their job at Plainfield Delight. I feel sad that I served my last patron and I did not even know it. I did not get to say goodbye!

- _____

- (g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.
- (h) ☐ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Claudette M Jerszak

(Plaintiff's name)

CLAUDETTE M JERSZAK

(Plaintiff's street address)

11414 S. Preakness

(City) Plainfield (State) IL. (ZIP) 60585

(Plaintiff's telephone number) 815-436-0731

Date: June 18th, 2010
14,

EEOC Form 7001 (1/10/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Claudette Jerzak
11414 S. Preakness Drive
Plainfield, IL 60585

From: Chicago District Office
500 West Madison St
Suite 2000
Chicago, IL 60661

CERTIFIED MAIL 7001 1940 0003 8823 9157



On behalf of person(s) approved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

440-2010-01478

Michael J. Honkanen,
Investigator

(312) 353-7312

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state):

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

John P. Rowe
John P. Rowe,
District Director

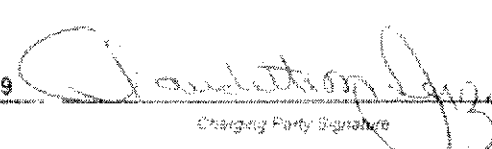
3/17/10

(Date Mailed)

Enclosures:

cc PLAINFIELD DELIGHT

EEOC Form 5 (11/05)

CHARGE OF DISCRIMINATION <small>(This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.)</small>		Charge Presented To: _____ Agency(ies) Charge No(s) _____ <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 440-2010-01478	
Illinois Department Of Human Rights and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.): Claudette Jerzak		Home Phone (incl. Area Code): (815) 436-0731	Date of Birth: 08-17-1956
Street Address: _____ City, State and ZIP Code: _____ 11414 S. Preakness Drive, Plainfield, IL 60585			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name: PLAINFIELD DELIGHT		No. Employees/Members: 15 - 100	Phone No. (include Area Code): (815) 254-1565
Street Address: _____ City, State and ZIP Code: _____ 24020 W. 119th Street, Plainfield, IL 60585			
Name: _____		No. Employees/Members: _____	Phone No. (include Area Code): _____
Street Address: _____ City, State and ZIP Code: _____		_____	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE <small>Earliest Latest</small> 11-24-2009	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____		<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s))			
<p>I was hired by Respondent on or about December 2008. My most recent position was Waitress. Respondent was aware of my disability. During my employment, I was subjected to harassment due to my disability. During my employment, I also requested reasonable accommodation that was not provided. I was discharged on November 24, 2009.</p> <p>I believe that I have been discriminated against because of my disability, in violation of the Americans with Disabilities Act of 1990, as amended.</p>			
RECEIVED EEOC OCT 30 2009 CHICAGO DISTRICT OFFICE			
I want this charge filed with both the EEOC and the State or local Agency. If any, I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date: Dec 30, 2009		SIGNATURE OF COMPLAINANT	
Charging Party Signature: 		SUBSCRIBED AND SWORN TO BEFORE ME, THIS DATE (month, day, year)	